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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,697	03/10/2004	Hisayoshi Mizuhara	114208-021	4318
43793	7590	06/23/2006	EXAMINER	
EVEREST INTELLECTUAL PROPERTY LAW GROUP			BRITTAIN, JAMES R	
P. O. BOX 708			ART UNIT	
NORTHBROOK, IL 60065			PAPER NUMBER	
			3677	

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/797,697

Applicant(s)

MIZUHARA ET AL.

Examiner

James R. Brittain

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**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 09 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

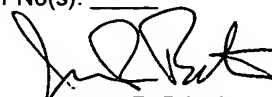
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: None.  
Claim(s) objected to: None.  
Claim(s) rejected: 1-4 and 7-9.  
Claim(s) withdrawn from consideration: None.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: See attachment.

  
James R. Brittain  
Primary Examiner  
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For purposes of appeal, the proposed amendment(s) will be entered and the proposed rejection(s) detailed below will be included in the Examiner's Answer. To be complete, such rejection(s) must be addressed in any brief on appeal.

Upon entry of the amendment(s) for purposes of appeal:

Claim(s) 1-4 and 7-9 would be rejected for the reasons set forth in the rejection under 35 U.S.C. 103 based upon GB 988659 in view of Schwendt (US 3922761) as set forth in the final Office action mailed March 10, 2006.

Further, applicant should answer the argument presented in response to applicant's request for reconsideration:

Applicant has chosen a claim construction that only states that "the ribs are formed at a sewing position to a sewing object" (claim 1, line 12) and nowhere is it required that stitches extend between the ribs. The device of GB 988659 can inherently have the stitches extend between ribs or even penetrate a rib and still clearly be "placed at a sewing position to a sewing object". Applicant has chosen a claim construction that certainly doesn't require any stitching between the ribs, but the device of GB 988659 can certainly have stitching in the gap between the ribs. Applicant argues that the dimension of the ribs is such that too small a rib reduces the contact area of the rib with the tape and the attachment strength of the rib with the tape is reduced. This is not an unobvious result. Clearly both GB 988659 and Schwendt (US 3922761) are teaching usable devices with the ribs functioning to reinforce the ends of the tape and would be dimensioned by one having ordinary skill in the art appropriately to stick to the tape and remain attached thereto as shown in the figures of these references. Applicant also argues that the width and height of the rib is such that the needle in the sewing process would damage the rib

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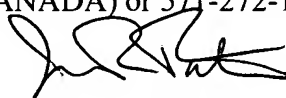
or be damaged itself. This may be of some pertinence with a particular method of attaching the tape wherein the needle mount is rigidly fixed, but is of no pertinence with the article claims because as indicated above the stitching is not claimed in combination and the rib or needle would not be damaged by a needle secured in a machine by a mount that would slightly slide upon contact with an object, such as a rib that is harder than fabric. The angling of the faces of the ribs is clearly taught by GB 988659 and would inherently provide for the deflection of a needle, though as pointed out, there is not even any stitching claimed in these final product claims. The total disclosures of GB 988659 and Schwendt (US 3922761) show many different rib configurations. Therefore, as to the dimensions, the scaling of the ribs to provide a particular degree of reinforcement is a function of the material of the ribs and the size of the ribs and it would have been obvious to one having ordinary skill in the art to scale the ribs to provide adequate strength for a particular application and this renders obvious applicant's particular claimed range. Applicant only claims that the vertex is chamfered in claims 2 and 3, so claim 1 does not require the vertex to be "chamfered", a term precisely defined in claim 3. GB 988659 clearly chamfers the vertex in figure 9, so that a flexible needle would inherently be deflected and as indicated above the particular level of scaling is a matter of providing the appropriate level of sought after reinforcement.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB